

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/29/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000717

FILED: _____

STATE OF ARIZONA

CARRIE M COLE

v.

GLEN CODY KREUZIGER

GLEN CODY KREUZIGER
11655 N 42ND PL
PHOENIX AZ 85028-0000

REMAND DESK CR-CCC
SCOTTSDALE CITY COURT

MINUTE ENTRY

SCOTTSDALE CITY COURT

Cit. No. #1497903

Charge: 1. SPEED GREATER THAN REASONABLE AND PRUDENT
(RADAR)

DOB: 12/04/78

DOC: 06/29/01

This Court has jurisdiction of this appeal pursuant to the
Arizona Constitution Article VI, Section 16, and A.R.S. Section
12-124(A).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/29/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000717

This matter has been under advisement since its assignment on January 22, 2002. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has considered and reviewed the record of the proceedings from the Phoenix City Court, and the Memoranda submitted by the parties.

The only issue raised by Appellant concerns his allegation that the State's witness, Officer Jensen, was not sworn prior to his testimony. Citing Rule 17, Arizona Rules of Procedure in Civil Traffic cases, Appellant complains that the record did not disclose that Officer Jensen was sworn prior to his testimony. Appellee's position is diametrically opposed to that of Appellant: Appellee contends that Officer Jensen was sworn and that the record clearly discloses that fact¹. Having reviewed the record, this Court finds that someone was sworn by the trial judge at the beginning of Appellant's trial. Unfortunately, the record does not disclose the identity of the person who was sworn. Logically one can assume that it was either Officer Jensen or Appellant, or both.

The record also does not disclose that Appellant made any contemporaneous objections, if, in fact, the officer was not sworn. Normally, a party's failure to object constitutes a waiver of that issue on appeal.² This Court finds that Appellant's failure to object if the State's witness was not sworn prior to his testimony constitutes a waiver of that issue.

Having reviewed the record and finding no other error,

IT IS ORDERED affirming the judgment of guilt and sentence imposed by the Scottsdale City Court.

¹ The better practice for the trial judge would have been to identify the persons who were sworn on the record. And, if police officers had been sworn for previous court trials or proceedings, to note for the record that the witnesses were previously sworn, and that they remain under oath.

² See State v. Gilreath, 107 Ariz. 318, 319, 487 P.2d 385, 386 (1971).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/29/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000717

IT IS FURTHER ORDERED remanding this matter back to the
Scottsdale City Court for all further and future proceedings.